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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/629,010 | 07/28/2003 | Daniel Shapiro | 109909-133501 | 7626 |
| 25943 | 7590 | 01/13/2006 | EXAMINER | |
| SCHWABE, WILLIAMSON & WYATT, P.C. PACWEST CENTER, SUITE 1900 1211 SW FIFTH AVENUE PORTLAND, OR 97204 | | | PHAM, TUAN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2643 | |

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,010

Applicant(s)

SHAPIRO ET AL.

Examiner

TUAN A. PHAM

Art Unit

2643

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-11, 13, 15-18, 22-29 and 33 is/are allowed.
- 6) ☒ Claim(s) 30 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 15 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 15 is improper because it is not clear that claim 15 depend on claim 1, but claim 1 has been cancel. For the purpose of the examination, Examiner assumes that claim 15 is independent claim.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murray et al. (Pub. No.: US 2003/0087664, hereinafter, "Murray") in view of Pine (U.S. Patent No.: 6,958,777).

Regarding claim 30, Murray teaches a wireless mobile communication device, a method of operation comprising: entering a first functional mode of operation (see col.1, [0009-0013], cellular mode); facilitating user communication with another user of another communication device, using the wireless mobile communication device, during the first functional mode of operation (see col.1, [0009-0013]); entering a second functional mode of operation (see col.1, [0009-0013], dispatch mode); and emitting at least one light pulse from the wireless mobile communication device, during the second functional mode of operation (see col.1, [0009-0015]).

It should be noticed that Murray fails teach integrating a first, a second, and a third light pulse of a red, a green, and a blue spectrum respectively to form one of the at least one light pulse. However, Pine teaches such features (see col.2, ln.22-30).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Pine into view of Murray in order to save space for the device and the device can be make smaller.

5. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Murray et al. (Pub. No.: US 2003/0087664, hereinafter, "Murray") in view of Naghi et al. (U.S. Pub. No.:2003/0072169).

Regarding claim 34, Murray teaches a wireless mobile communication device, a method of operation comprising: entering a first functional mode of operation (see col.1, [0009-0013], cellular mode); facilitating user communication with another user of another communication device, using the wireless mobile communication device, during the first functional mode of operation (see col.1, [0009-0013]); entering a second functional mode of operation (see col.1, [0009-0013], dispatch mode); and emitting at least one light pulse from the wireless mobile communication device, during the second functional mode of operation (see col.1, [0009-0015]).

It should be noticed that Murray fails teach comprises narrowly diffusing the at least one light pulse being emitted. However, Naghi teaches such features (see col.3, [0029]).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Naghi into view of Murray in order to avoid the hot spot as suggested by Naghi at col.3, [0029].

Allowable Subject Matter

6. Claims 3-11, 13, 15-18, 22-29, and 33 are allowed.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Tuan A. Pham** whose telephone number is (571) 272-8097. The examiner can normally be reached on Monday through Friday, 8:00 AM-5:00 PM.

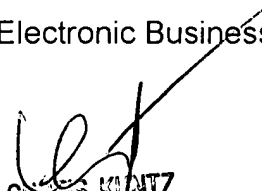
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz can be reached on (571) 272-7499 and

IF PAPER HAS BEEN MISSED FROM THIS OFFICIAL ACTION PACKAGE, PLEASE CALL Customer Service at (571) 272-2600 FOR THE SUBSTITUTIONS OR COPIES.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have question on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Art Unit 2643
January 5, 2006
Examiner

Tuan Pham


CURTIS KUNTZ
SENIOR PATENT EXAMINER
ART UNIT 2600